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Refund in GST – Applicability and Procedure

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Procedure of Refund in GST is time bound and if not paid in time will be subject to interest. It seems to be simple . Circumstances are defined under which tax payer shall be eligible to file for refund and same shall be process as per the prescribed law. Refund of GST is prescribed in Section- 54 of the CGST Act,2017.

Applicability and Procedure

- ✓ Any person may make an application to the proper officer of IGST/CGST/SGST for refund of Tax and Interest, if any amount paid by him before the expiry of two years from the relevant date. But any taxable person , claiming any refund of any balance in electronic cash ledger u/s 49[6], may claim the same in return filed u/s 39.

- ✓ Any specialized agency of United Nation Organisation , consulate or embassy of foreign countries or any multilateral Financial Institution or Organization or any person or class of person mentioned under u/s 55, may claim refund of tax paid by it on inward supply before the expiry of six months from the last day of the quarter in which supply was received.

- ✓ Taxable person may claim unutilized input tax credit at the end of any tax period. But this can be claimed by

  - In case of export including zero rated supply without payment of tax.
  - where the rate of input tax credit is higher than the output tax [other than nil rated and fully exempt supplies] .
  - No refund of input tax credit can be taken, if the export is on the payment of export duty.
  - No refund of ITC shall be allowed if supplier of goods or services or both avails duty drawback of central tax or claimed refund of integrated tax

- ✓ Application of refund shall be filed along with documentary evidence which shall establish the amount of tax and interest and declaration of the act that the same has not been passed to any other person. Where the claim is less than rupees two lakh, it will not be necessary to file any documentary evidence but he may file declaration to certify that such tax and interest has not been passed on to any other person.

- ✓ On receipt of application if proper officer is satisfy that the whole or part of refund is refundable and will pass the order and the amount so determine shall be credited to fund u/s 57 i.e consumer welfare fund. [Section 54[5]]

- ✓ Proper officer on zero rated supply of goods or services or both may refund

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90% of the claim on provisional basis. And pass final order after due verification of documents.

- ✓ The above claim of refund shall be issued within 60 days from the date of receipt of application.

- ✓ However as mentioned in sub section 54[5], refundable amount instead of being credited to fund account , can be credited to applicant , if such amount is relatable to

  I. Refund of tax paid on zero rated supplies of goods or services or both or on input or input services used in making such zero rated supplies.
  II. Refund of unutilized input tax credit as per section 54[3].
  III. Refund of tax paid on supply which has not been provided wholly or partially for which invoice has not been raised or refund voucher has been issued.
  IV. Refund of tax as per Section-77.
  V. Tax interest paid by taxpayer and the same has not been passed on to any person.

- ✓ Where refund is subject matter of appeal, proper officer may withheld the refund.

- ✓ Where any refund is due on account of unutilized credit may be held if the return required has not been furnished or not paid the tax, interest and penalties and case has not bee stayed by any court. The amount due above may be deducted out of refund.

- ✓ Where refund is withheld, applicant shall be eligible for interest at 6%, if he won the case in appeal.

- ✓ Advance tax deposited by casual Taxable Person and Non resident taxable person will not refunded unless certificate granted to them remain in force and all return furnished by them.

- ✓ No refund shall be process, if the amount is less than Rs. 1000.

- ✓ Where the claim pertains to refund from Electronic cash ledger ,the proper officer shall provide the GST RFD-2 to the applicant as acknowledgement on the common portal.

- ✓ Claims other than electronic cash ledger, application shall be forward to proper officer who will examine the correctness of the application within 15 days of filing and acknowledge the same on Form-GST RFD -2 clearly stating the date of filing the application.

- ✓ Where any deficiency is noticed, the proper officer shall intimate the same on Form- GST RFD-3 to the applicant.

- ✓ To avoid the holding of capital of exporters, it has been provided to refund the 90% of the claim with in 7 days of the acknowledgment of claim. And will pass Order on Form –GST RFD-4 to the effect.

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- ✓ Refund in case of international tourist ; [Section 15 of the IGST Act,2017]

  I. IGST paid by any international tourist taking supply of goods out of India. Tourist means person not normally resident of India who enter into India for stay not more than six months.

“Relevant Date” as mentioned above

- ✓ In case of export of goods out of India.
  - ➢ In case of goods exported by sea or aircraft, the date on which the sea or aircraft leaves India.
  - ➢ In case goods exported by land , the date on which goods pass the frontier.
  - ➢ In case goods exported by post , the date of dispatch by post office to place outside India.
- ✓ In case of supply of goods treated as deemed export, the date of filing of return relating to such deemed export.
- ✓ In case of export of services;
  - ➢ The receipt of foreign exchange where the services have been completed before the receipt of payment.
  - ➢ Issue of invoice where the payment of services received in advance.
- ✓ Where tax becomes refundable on any court order, date of communication of order.
- ✓ In case of refund of unutilized credit , end of financial year in which claim arises
- ✓ In any other case, date of payment of tax.

Interest on delayed refunds

- ✓ If the refund is not paid within 60 days as mentioned above , interest as may be prescribed shall be paid from the expiry of 60 days.

Relevant Rules for Refund - Procedure

Rules -89 [Application for refund of tax, interest ,fees or any other amount]

- ➢ Any person other than the person covered under notification under section -55 and refund of integrated tax paid on export of goods out of India, may file application on GST RFD-01.

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Though the refund of balance in Electronic Cash Ledger may be claimed through the return filed as GSTR-3, GSTR-4 and GSTR-7 as per the provision of Section 49[6]

In case of supplies to SEZ unit or SEZ developer application shall be filed by supplier of goods or services as endorsed by the specified officer of the zone.

In case of supplies regarded as deemed export , the application shall be filed by recipient of deemed export supplies.

- The application in annexure -1 of Form-GST RFD -1 shall be filed along with any of the following document;

  - Reference number and copy of the order passed by competent authority
  - In case refund is on account of export of goods, statement containing the number and date of shipping bills or bills of export and number and date of relevant export invoice.
  - In case of export of services, bank realization certificate or copy of FIRC.
  - Statement containing the number and date of invoice along with proof of endorsement for supply of goods or services to SEZ unit or developer.
  - Declaration to the effect that SEZ unit or developer has not availed the ITC of tax paid by the supplier of goods or services or both.
  - Statement containing the number and date of invoice along with other evidence as may be notified where the refund is on account of deemed export .
  - Statement containing the number and date of invoice issued during a period for claim pertains to refund of any unutilized ITC where the credit has accumulated on account of higher rate of input the rate of output supplies.
  - Statement showing the detail of transaction considered as intra-state instead of inter-state.
  - Statement showing the detail of amount of claim on account of excess payment of tax.
  - Declaration to the effect that the tax, interest and any other amount has not been passed on to the any other person where the amount does not exceed Rs. 2 lacs. Declaration is not required in case of clause a,b,c,d or f of section 54[8].
  - Certificate in Annexure -2 shall be issued by chartered accountant or cost accountants to the effect that the tax, interest and any other amount has not been passed on to the any other person where the amount exceed Rs. 2 lacs. Certification is not required in case of clause a,b,c,d or f of section 54[8]

  - Where the refund relates to ITC , supplier will debit the Electronic Credit Ledger.

  - In case of zero rated supply of goods or services or both under Bond or LUT as per the provision of section 16[3] of the IGST Ac,2017 refund of ITC shall be granted as per the following formula;

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Refund = (turnover of zero rated supply of goods + turnover of zero rated supply of services)X Net ITC / adjusted turnover

Rule -90 [Acknowledgement of Application]

- Acknowledgement on GST RFD -02 shall be issued to applicant indicating the date of filing of the claim.
- In case of deficiency in application , proper officer shall communicate on GST RFD-03.

Rule -91 [Grant of provisional refund]

- The provisional refund as per section 54[6] shall be granted if the applicant has not been prosecuted for any offence under this act or under the existing law during the five years proceeding the tax period for which claim is filed and where the amount evaded exceed Rs. 250 lacs.
- Proper officer after scrutiny of documents make order on GST RFD -04.
- Payment advice shall be issued on GST RFD-05 and amount shall be credited to the applicant bank.

Rule -92 [Order sanctioning refund]

- Where the refund is due and payable to applicant , the proper officer make an order in GST RFD -06 stating the refund amount , amount of provisional payment and any demand adjusted against the refund. Where the demand is completely adjusted against the refund , the fact shall be stated in GST RFD-07 Part-A.
- Where proper officer feel that refund has to be upheld, he may do so by passing an order in Part B of GST RFD -07.
- Where whole or nay part of the refund is not payable , notice in GST RFD-08 will be issued requiring the applicant to file GST RFD-09 within 15 days.
- Where proper officer is satisfy that refund under section 54[1,2 and 8] is payable issue order in GST RFD -06 and payment advice on GST RFD-05.

Rule -93 [Credit of amount of rejected refund claim]

- Where any deficiency is communicated , the amount debited under rule-89 shall be re-credited to the electronic credit ledger a/c.
- Where any interest is payable along with refund shall be paid and intimated on GST RFD-05 .

Rule -95 [Refund of tax to certain persons]

- Where any refund is payable to eligible person u/s 55 on input credit , shall apply on GST RFD -10 once in every quarter, electronically once in every quarter on common portal along with statement of inward supply of goods or services on GST RFD-11.

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- Applicant shall be entitle for refund if
  I. Goods or services is received from registered person on table person and price of supply is more than Rs. 5000 excluding tax.
  II. Name of goods or services along with Unique identification number is mentioned on the invoice.

Rule -96 [refund of integrated tax paid on goods exported out of India]

- Shipping bill filed by exporter shall be deemed to be application for refund of IGST. Applicant has furnished GSTR -3
- Detail of export invoice shall be filed in GSTR-1 and shall be transmitted by common portal to custom and the same be transmitted back to common portal confirming the goods covered under invoice have been successfully exported.
- After receiving the information from common portal of filing of return in GSTR-3 , designated cell of custom will process the claim of refund and transfer the amount to bank a/c of the applicant.
- The claim for refund for deficiency can be withheld.

Rule -96A

- Notification no.15/2017 Central Tax dated 1.7.2017 inserted this rules on refund of integrated tax paid on export of goods or services under bond or letter of undertaking.
- Any registered person supply goods or services for export without payment of IGST on bond or LUT, if he apply on GST RFD-11 to the Jurisdictional Commissioner and bind himself that he will pay the tax and interest if the export could not done as follows

  I. 15 days after the expiry of three months from the date of issue of invoice, if the goods are not exported out of India.
  II. 15 days after the expiry of one year from the date of issue of invoice of services , if the payment is not received in convertible foreign exchange.
  III. The detail of such export invoices shall be provided in GSTR-1.

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